

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SUMMONS ISSUED

IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ DEC 14 2010 ★

-----X Case No.

DESMOND PESSOA,

BROOKLYN OFFICE

Plaintiff,

CV 10-5808
COMPLAINT

-against-

COGAN, J.

NORTHSTAR LOCATION SERVICES, LLC.,

Defendant.

-----X

Plaintiff, by and through his attorneys, FAGENSON & PUGLISI, upon knowledge as to himself and his own acts, and as to all other matters upon information and belief, brings this complaint against the above-named defendant and in support thereof alleges the following:

INTRODUCTION

1. This is an action for damages brought by an individual consumer for defendant's violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692, *et seq* which prohibits debt collectors from engaging in abusive, deceptive and unfair acts and practices.

PARTIES

2. Plaintiff is a natural person residing in this District and is a consumer as defined by the FDCPA, §1692a(3).

3. Upon information and belief, defendant is a debt collector, as defined pursuant to 15 U.S.C. §1692a(6). Defendant collects or attempts to collect debt already in default by use of the mail and/or the telephone. Upon information and belief, defendant is a domestic limited liability company incorporated in New York.

JURISDICTION AND VENUE

4. This Court has jurisdiction and venue pursuant to 15 U.S.C. §1692k(d) (FDCPA) and 28 U.S.C. §1331.

AS AND FOR A FIRST CAUSE OF ACTION

5. Plaintiff re-alleges paragraphs 1 to 4 as if fully re-stated herein.

6. That in or about June 2008, Capital One Auto Finance (Capital One) sent a letter to plaintiff concerning an alleged automobile debt incurred for personal purposes.

7. That after receipt of the said letter plaintiff conferred with his attorney, Concetta Puglisi, Esq., at Fagenson & Puglisi.

8. That said attorney sent a debt dispute letter to Capital One on July 7, 2008. Ms. Puglisi requested in her letter that plaintiff not be contacted directly regarding the debt. A copy of this letter is attached as Exhibit "1".

9. That in or around June 2009 Rubin & Rothman, LLC, attorneys-at-law, sent a collection letter to plaintiff in an attempt to collect the same Capital One debt.

10. That after receipt of the said letter from Rubin & Rothman plaintiff conferred with his attorney, Concetta Puglisi, Esq., at Fagenson & Puglisi.

11. That said attorney sent a debt dispute letter to Rubin & Rothman on June 30, 2009. Ms. Puglisi requested in her letter that plaintiff not be contacted directly regarding the debt.

12. That on or about September 2, 2009, Rubin & Rothman wrote to Ms. Puglisi, enclosing purported verification of the debt from Capital One.

13. That on October 6, 2009, Rubin & Rothman commenced a lawsuit against plaintiff in the Kings County Civil Court for the said debt.

14. That, notwithstanding Ms. Puglisi's letters to Capital One and to its attorneys, Rubin & Rothman, and notwithstanding ongoing litigation in Kings Civil Court, defendant subsequently sent to plaintiff, at his home, a debt collection letter dated December 15, 2009, concerning the same Capital One debt. A copy of the said letter is attached as Exhibit "2".

15. That said letter to plaintiff from defendant constitutes improper direct contact with plaintiff with full knowledge that he is represented by counsel in the matter of the collection of the debt and while litigation was pending concerning the debt, and is in violation of the FDCPA, including but not limited to §1692c(a)(2). Said letter also violates §1692e(10), as a false representation or deceptive means to collect or attempt to collect a debt or to obtain information concerning a consumer.

16. That defendant sent the afore-mentioned collection letter to plaintiff after Capital One informed defendant that plaintiff is represented by an attorney in the matter of the collection of the debt.

17. That, in the alternative, defendant failed to inquire of Capital One whether plaintiff is represented by an attorney, as defendant was obligated to do.

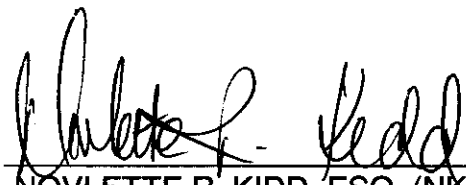
WHEREFORE, plaintiff respectfully prays that judgment be entered against the defendant as follows:

- (a) statutory damages pursuant to 15 U.S.C. §1692k in an amount to be determined at the time of trial;
- (c) reasonable attorneys' fees, costs and disbursements pursuant to 15 U.S.C. §1692k; and
- (d) for such other and further relief as may be just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff requests trial by jury on all issues so triable.

Dated: New York, New York
December 14, 2010.



NOVLETTE R. KIDD, ESQ. (NK9339)
FAGENSON & PUGLISI
Attorneys for Plaintiff
450 Seventh Avenue, Suite 704
New York, New York 10123
Telephone: (212)268-2128
Nkidd@fagensonpuglisi.com

EXHIBIT "1"

FAGENSON & PUGLISI

ATTORNEYS AT LAW

450 SEVENTH AVENUE
SUITE 3302

NEW YORK, NEW YORK 10123

LAWRENCE M. FAGENSON
CONCETTA PUGLISI
NOVLETTE R. KIDD
CASIMIR SONDEY

TELEPHONE: (212) 268-21
FAX: (212) 268-21

July 7, 2008

Capital One Auto Finance, Inc.
3901 Dallas Parkway
Plano, TX 75093

Re: Desmond A Pessoa
Re: 07 Ford Escape
Vehicle ID #: [REDACTED]

Dear Sir/Madam:

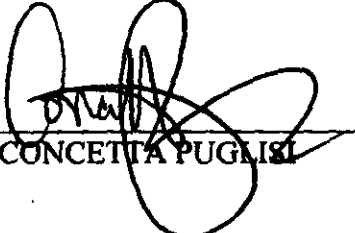
Please be advised that Fagenson & Puglisi represents Desmond A. Pessoa. Mr. Pessoa disputes the debt you are attempting to collect.

Please provide this office with documentation supporting your claim. Do not contact our client directly. Delete or correct any negative entry which you may be reporting to the credit reporting agencies in accordance with the Fair Credit Reporting Act.

Please note that Fagenson & Puglisi is not authorized to accept Service of Process on behalf of any client.

Should you have any questions please contact the undersigned.

Very truly yours,
FAGENSON & PUGLISI


CONCETTA PUGLISI

CP/mo
enclosure

EXHIBIT "2"

4285 Genesee Street
Cheektowaga, NY 14225-1943

Return Service Requested

**NORTHSTAR
LOCATION SERVICES, LLC**

1-866-610-2729
Hours Mon-Thur 8AM-10PM EST,
Fri 8AM-8PM, Sat 8AM-4PM EST

December 15, 2009

Creditor:	Capital One Auto Finance
Account Number:	[REDACTED]
Balance Due:	\$ [REDACTED]
Amount Remitted:	\$

200900001034237-LT1

*A-01-ONW-AM-00030-4



DESMOND PESSOA

[REDACTED]
BROOKLYN NY 11213-2545



NORTHSTAR LOCATION SERVICES, LLC
ATTN: FINANCIAL SERVICES DEPT.
4285 GENESEE ST
CHEEKTOWAGA NY 14225-1943



To ensure proper credit, return this portion with your payment.

Creditor	Account #	Balance Due	Amount Remitted
Capital One Auto Finance	[REDACTED]	\$ [REDACTED]	

The above account has been referred to our office by Capital One Auto Finance. Your account is listed as delinquent with a total amount due of \$ [REDACTED]

Federal law requires that we inform you this communication is from a professional debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose. This collection agency is licensed by the Department of Consumer Affairs, the City of New York License # 1179143.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt to be valid. If you notify this office in writing within 30 days of receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or a copy of a judgment and a copy of such verification or judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

To make paying your account more convenient we offer the following payment options:

- Check-by-phone at 1-866-610-2729
- MoneyGram ExpressPayment
- Credit or Debit Card
- Web Pay at www.gotonls.com
- Pay in person at our office
- Enclose your payment in the envelope

You may contact a Northstar Account Representative toll free at 1-866-610-2729 or direct dial our Remittance Department at 1-866-610-2729 to make your payment.

